

No. 14407

---

**United States  
Court of Appeals**  
for the Ninth Circuit

---

GILBERT LORD,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

---

**Transcript of Record**

---

**Appeal from the District Court  
for the District of Alaska,  
Fourth Division.**

**FILED**

OCT 27 1954

PAUL F. O'BRIEN,  
CLE



No. 14407

---

United States  
Court of Appeals  
for the Ninth Circuit

---

GILBERT LORD,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

---

Transcript of Record

---

Appeal from the District Court  
for the District of Alaska,  
Fourth Division.



## INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Appellant's Statement of Points to Be Relied Upon .....	86
Attorneys of Record.....	1
Certificate of Clerk.....	84
Exhibit, Government's:	
H—Judgment and Commitment Docket No. 1676 Cr. ....	73
Indictment .....	3
Judgment and Commitment.....	6
Notice of Appeal.....	8
Transcript of Proceedings.....	10
Witness, Defendant's:	
Lord, Gilbert	
—direct .....	68
—cross .....	72
Witnesses, Plaintiff's:	
Elliott, Norman	
—direct .....	46, 82
—cross .....	49, 82

	INDEX	PAGE
Witnesses, Plaintiff's:—(Continued):		
John, Silas		
—direct .....		25
—cross .....		30
Lambert, Richard		
—direct .....		34
—cross .....		36
—redirect .....		44
Ross, Fred		
—direct .....		11
—cross .....		15
—redirect .....		22
—recross .....		23
Steger, Olga		
—direct .....		67
Wilson, Herbert H.		
—direct .....		53
—cross .....		61
—redirect .....		65
Verdict .....		5

ATTORNEYS OF RECORD

THEODORE F. STEVENS,  
U. S. Attorney;

GEORGE M. YEAGER,  
Asst. U. S. Attorney;

PHILIP MORGAN,  
Asst. U. S. Attorney,  
Box 111, Fairbanks, Alaska,

Attorneys for Plaintiff and Appellee.

JULIEN A. HURLEY,  
Box # 1043, Fairbanks, Alaska;

MIKE STEPOVICH,  
Box # 63, Fairbanks, Alaska,

Attorneys for Defendant and Appellant.





In the District Court for the District of Alaska,  
 Fourth Judicial Division  
 No. 1859 Cr.

UNITED STATES OF AMERICA,  
 Plaintiff,

vs.

GILBERT LORD,  
 Defendant.

### INDICTMENT

Crime:

Ct. I. Selling intoxicating liquor without a license.

Cts. II, III, IV. Selling intoxicating liquor without a license.

#### Count I.

The Grand Jury charges in Count I of this Indictment:

That on the 18th day of February, 1954, in the Fairbanks Precinct, Fourth Judicial Division and Territory of Alaska, Gilbert Lord did possess and sell intoxicating liquor, to wit, two (2) bottles of whiskey. to wit, two (2) one-half ( $1\frac{1}{2}$ ) pints of Hiram Walker Imperial Whiskey, to Fred Ross, without he, the said Gilbert Lord, having procured the necessary license to sell the said intoxicating liquor to the said Fred Ross, in violation of Sections 35-4-11 and 35-4-15(6) of the Alaska Compiled Laws Annotated, 1949.

#### Count II.

The Grand Jury charges in Count II of this Indictment:

That on the 19th day of February, 1954, in the Fairbanks Precinct, Fourth Judicial Division and Territory of Alaska, Gilbert Lord did possess and sell intoxicating liquor, to wit, two (2) bottles of whiskey, to wit, two (2) one-half ( $1\frac{1}{2}$ ) pints of Hiram Walker Imperial Whiskey, to Fred Ross, without he, the said Gilbert Lord, having procured the necessary license to sell the said intoxicating liquor to the said Fred Ross, in violation of Sections 35-4-11 and 35-4-15(6) of the Alaska Compiled Laws Annotated, 1949.

#### Count III.

The Grand Jury charges in Count III of this Indictment:

That on the 19th day of February, 1954, in the Fairbanks Precinct, Fourth Judicial Division and Territory of Alaska, Gilbert Lord did possess and sell intoxicating liquor, to wit, one (1) four-fifths ( $\frac{4}{5}$ ) bottle of wine, to Silas John, without he, the said Gilbert Lord, having procured the necessary license to sell the said intoxicating liquor to the said Silas John, in violation of Sections 35-4-11 and 35-4-15(6) of the Alaska Compiled Laws Annotated, 1949.

#### Count IV.

The Grand Jury charges in Count IV of this Indictment:

That on the 20th day of February, 1954, in the Fairbanks Precinct, Fourth Judicial Division and Territory of Alaska, Gilbert Lord did possess and sell intoxicating liquor, to wit, one (1) four-fifths ( $\frac{4}{5}$ ) bottle of wine and one (1) four-fifths ( $\frac{4}{5}$ )

bottle of home-brewed beer, to Silas John, without he, the said Gilbert Lord, having procured the necessary license to sell the said intoxicating liquor to the said Silas John, in violation of Sections 35-4-11 and 35-4-15(6) of the Alaska Compiled Laws Annotated, 1949.

Dated at Fairbanks, Alaska, this 24th day of February, 1954.

A True Bill.

/s/ VIRGIL M. CADY,  
Foreman of the Grand Jury.

/s/ GEORGE M. YEAGER,  
Assistant United States  
Attorney.

Witnesses before the Grand Jury:

Richard T. Lambert,  
Herbert H. Wilson,  
Fred Ross,  
Silas John,  
Norman Henry Victor Elliott.

[Endorsed]: Filed February 24, 1954.

---

[Title of District Court and Cause.]

### VERDICT

We, the jury, duly empaneled and sworn to try the above-entitled cause, do from the law and the evidence herein find:

(a) That the defendant is Guilty of the crime of selling intoxicating liquor without a license, as charged in Count I of the Indictment;

(b) That the defendant is Guilty of the crime of selling intoxicating liquor without a license as charged in Count II of the Indictment;

(c) That the defendant is Guilty of the crime of selling intoxicating liquor without a license, as charged in Count III of the Indictment;

(d) That the defendant is Guilty of the crime of selling intoxicating liquor without a license, as charged in Count IV of the Indictment.

Done at Fairbanks, Alaska, this 28th day of April, 1954.

/s/ MARTIN SMITH,  
Foreman.

[Endorsed]: Filed and entered April 28, 1954.

---

In the District Court for the District of Alaska,  
Fourth Judicial Division  
No. 1859 Cr.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

GILBERT LORD,  
Defendant.

### JUDGMENT AND COMMITMENT

On the 4th day of May, 1954, came the attorney for the Government and the defendant appeared in person and by counsel.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of Selling Intoxicating Liquor Without a License, as charged in counts number One, Two, Three and Four in the Indictment on file herein; and the Court having asked the defendant, Gilbert Lord, whether he had anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant, Gilbert Lord, is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General, or his authorized representative, on the following count for the following period:

(a) On Count I, for a period of six (6) months, such sentence to commence on the 4th day of May, 1954.

It is Adjudged that the defendant pay to the Clerk of the Court the following sums on the following counts:

(a) On Count II, the sum of Five Hundred Dollars (\$500.00) assessed against him as a fine herein;

(b) On Count III, the sum of Five Hundred Dollars (\$500.00) assessed against him as a fine herein;

(c) On Count IV, the sum of Five Hundred Dollars (\$500.00) assessed against him as a fine herein;

and that said defendant be imprisoned until the payment of said fine, or until he is otherwise discharged as provided by law.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal, or other qualified officer, and that the copy serve as the commitment of the defendant, Gilbert Lord, and that said defendant pay the costs of this action in the sum of \$. . . . ., to be taxed by the Clerk of the Court.

Done at Fairbanks, Alaska, this 4th day of May, 1954.

/s/ HARRY E. PRATT,  
District Judge.

[Endorsed]: Filed and entered May 4, 1954.

[Title of District Court and Cause.]

#### NOTICE OF APPEAL

Gilbert Lord, Ft. Yukon, Alaska, Defendant.

Julien A. Hurley and Mike Stepovich, Fairbanks, Alaska, Attorneys for Defendant.

Offense: Selling and possessing intoxicating liquor without having procured the necessary license in violation of Sections 35-4-11 and 35-4-15(6) of the Alaska Compiled Laws Annotated, 1949.

Whereas, Gilbert Lord, the above-named defendant, was duly tried and by jury's verdict convicted

of the crimes of possessing and selling intoxicating liquor without having procured the necessary license on four counts in violation of Sections 35-4-11 and 35-4-15(6), Alaska Compiled Laws Annotated, 1949, and was sentenced by the above-entitled court on the 3rd day of May, 1954, to be confined in the Federal Jail in Fairbanks, Alaska, for a period of six (6) months on Count I, and to be fined Five Hundred Dollars (\$500.00) each on Counts II, III and IV.

I, Gilbert Lord, the above-named defendant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated at Fairbanks, Alaska, this 3rd day of May, 1954.

/s/ GILBERT LORD,  
Defendant.

/s/ JULIEN A. HURLEY,  
/s/ MIKE STEPOVICH,  
Attorneys for Defendant.

Receipt of copy acknowledged.

[Endorsed]: Filed May 5, 1954.

In the District Court for the District of Alaska,  
Fourth Judicial Division

No. 1859 Cr.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

GILBERT LORD,  
Defendant.

PROCEEDINGS

Appearances:

THEODORE F. STEVENS,  
United States Attorney,  
Attorney for the Plaintiff.

JULIEN A. HURLEY,  
MIKE STEPOVICH,  
Attorneys for Defendant.

April 28, 1954

(Be It Remembered, that at 10:00 a.m. upon the 28th day of April, 1954, the trial of this cause, No. 1859, was begun, the plaintiff and defendant represented by counsel, the Honorable Harry E. Pratt, District Judge, presiding.)

The Court: Call the roll of the jury.

(Whereupon, the Clerk of Court proceeded to call the roll.)

The Clerk: They are all present, your Honor.



The Court: This is the time set for trial in Cause Number 1859, criminal, United States vs. Gilbert Lord. Are the parties ready?

Mr. Hurley: We are ready, your Honor.

The Court: Are you ready to proceed with the trial?

Mr. Stevens: Yes, your Honor.

(At this time Mr. Stevens made a brief statement to the veniremen and Mr. Stevens and Mr. Hurley proceeded to impanel a jury.)

(A jury was duly impaneled and sworn to try the above-named cause.)

(Mr. Stevens presented his opening statement to the jury.)

(Mr. Hurley presented an opening statement to the jury.)

Mr. Stevens: The Government calls Fred Ross.

### FRED ROSS

a witness called on behalf of the plaintiff, was duly sworn [4\*] and testified as follows:

#### Direct Examination

By Mr. Stevens:

Q. Will you tell us your name, please?

A. Fred Ross.

Q. Where do you live, Fred?

A. Fort Yukon.

Q. Is that in Alaska?           A. Yes.

---

\*Page numbering appearing at top of page of original Reporter's Transcript of Record.

(Testimony of Fred Ross.)

Q. And how far is it from Fairbanks?

A. About two hundred fifty miles, or somewhere.

Q. How long have you lived in Fort Yukon?

A. Since I was born.

Q. Do you know Gilbert Lord?

A. I know him off and on.

Q. Do you know where Gilbert Lord lives in Fort Yukon?      A. Yes.

Q. Calling your attention to the 18th day of February of this year, did you have occasion to go to Mr. Lord's house?      A. Yes.

Q. And what time was that?

A. About, between nine and eleven.

Q. And what did you go there for?

A. Went there to buy some whiskey.

Clerk of Court: Government's Identification No. 1 and No. 2. [5]

(Two one-half pint bottles of Imperial whiskey were marked Government's Identification Nos. 1 and 2, respectively.)

Q. (By Mr. Stevens): Now, this is Government's Identification 1, Fred; will you tell us what that is?      A. Half a pint of whiskey.

Q. And have you seen it before?      A. Yes.

Q. When did you see that?

A. The time when I bought it from Gilbert.

Q. How much did you pay him for it?

A. Six dollars for this half a pint.

(Testimony of Fred Ross.)

Q. Is there any way to, for you to identify it; did you put any markings on it?

A. Yes, I got my initials on it, right here.

Q. Now, this is Government's Identification No. 2; will you tell us what that is, please?

A. This is another half-pint of whiskey.

Q. Have you seen that before?      A. Yes.

Q. Where did you see it?

A. The time when I bought it from Gilbert.

Q. And how much did you pay Mr. Lord for that?      A. Six dollars.

Q. Did you make any mark on that bottle? [6]

A. Yes, it's got my initials on it.

The Court: How did you mark up the first bottle you mentioned?

The Witness: Pardon?

The Court: What mark did you put on the first bottle that you mentioned?

The Witness: I put my initials on it.

Q. (By Mr. Stevens): And you placed your initials on both bottles?      A. Yes.

Q. Did you place any other writing on them?

A. No.

Q. Now, what time was it when you bought the whiskey?      A. About ten-thirty.

Q. Was there anyone with you when you went to Mr. Wilson's house?      A. Yes.

Q. Pardon me, Mr. Lord's house. This is to Mr. Lord's house?

A. Mr. Lambert and Mr. Wilson were with me and they—(interrupted).

(Testimony of Fred Ross.)

Q. Did they go into the house with you?

A. No, they were out in the back waiting for me.

The Clerk: Government's Identification No. 3 and No. 4.

(Two one-half pint bottles of Imperial whiskey were marked Government's Identification Nos. 3 and 4, respectively.) [7]

Q. (By Mr. Stevens): Now, did you go back to Mr. Lord's house again that evening, or early the next morning?

A. I went there early the next morning again.

Q. About what time was that?

A. That was about one o'clock in the morning.

Q. Now, this is Government's Identification 4, Fred; have you seen that before? A. Yes.

Q. Is there anything on there that can identify the bottle for you to show that you have seen it before?

A. Yes, there is my initials on here.

Q. And where did you get that?

A. Gilbert Lord.

Q. How did you get it from him?

A. I bought it from him.

Q. How much did you pay him?

A. Six dollars.

Q. This is Government's Identification 3, Fred; would you tell us on that one, too, have you seen that before? A. Yes.

Q. And where did you see that before?

A. When I got it from Gilbert Lord.

(Testimony of Fred Ross.)

Q. And how did you get it from him?

A. I paid him for it.

Q. How much did you pay him?

A. Six dollars. [8]

Q. Is there any mark on that bottle that you can identify it by?

A. Yes, there is my initials on there.

Q. Now, when did you write your initials on these bottles?      A. Right after I bought them.

Q. How did you happen to go to Gilbert Lord's place to buy whiskey?

A. Well, Mr. Lambert asked me to go there for him, so I went there.

Q. Did you know that Mr. Lord had whiskey for sale?

A. I didn't know for sure, but I went there and tried anyway.

Q. And you paid the same price for each one of these bottles, is that what you tell us?

A. Yes.

Q. Six dollars per each one?      A. Yes.

Mr. Stevens: Your witness, Mr. Hurley.

### Cross-Examination

By Mr. Hurley:

Q. Which ones of these bottles did you mark first?      A. These two here, I think.

Q. When did you buy those two?

A. Well, between nine and eleven o'clock.

Q. You bought, how do you know—is there any difference in those bottles? [9]      A. No.

(Testimony of Fred Ross.)

Q. How do you know which ones you bought first?

A. Because Stevens gave me these two here first.

Q. How do you know he did?

A. He just gave them to me.

Q. Yes, but can you tell the difference between those four bottles?

A. I can tell the difference from initials.

Q. What is the difference in your initials on the different bottles?

A. It is got time on each bottle here.

Q. It's got what?

A. Time on each bottle.

Q. The time you got the bottle?           A. Yes.

Q. Where is the pen that you wrote that with?

A. It was Mr. Wilson's pen.

Q. Mr. Wilson's pen on this one; is that right?

A. Yes.

Q. And you are sure you wrote it, are you?

A. Yes.

Q. What?           A. Yes.

Q. That is your handwriting?           A. Yes.

Q. And who wrote the numbers on this one? [10]

A. I wrote my initials on there, too.

Q. And I see Lambert's initials on here, too; who put that on?           A. Mr. Lambert.

Q. When did he put that on?

A. The same night.

Q. When was this one bought, this bottle?

A. This bottle was bought on 18 February.

Q. You didn't drink any of this whiskey?

(Testimony of Fred Ross.)

A. I tasted one of them.

Q. Yeah, that is the only one?           A. Yes.

Q. What did you buy them for?

A. Well, Mr. Lambert asked me to buy them for him, so.

Q. Oh, you bought them for him?           A. Yes.

Q. Oh, I see, and where was he when you bought them?

A. He was out behind Mr. Lord's place.

Q. What was he doing out there?

A. Watching me go up.

Q. Watching you go where?

A. To Mr. Lord's place.

Q. Who else was watching?

A. Mr. Wilson.

Q. And did they go in?           A. No. [11]

Q. And were they watching there both times?

A. Yes.

Q. And you say Mr. Lambert give you some money?           A. Yes.

Q. How much?

A. Mr. Lambert gave me ten dollars the first time and Mr. Wilson gave me twenty-five.

Q. At the same time?           A. Yes.

Q. Mr. Wilson gave you twenty-five and Mr. Lambert gave you ten?           A. Yes.

Q. What did you do with the change?

A. I brought it back.

Q. And who were you working for at that time?

A. I was working for the hospital.

Q. And who run that at that time; who was in

(Testimony of Fred Ross.)

charge of it?           A. Miss Jean Aubrey.

Q. And who paid you for your work?

A. The Missionary District of Alaska.

Q. Who?

A. The Missionary District of Alaska.

Q. And was that where—was Mr. Lambert in charge there at that time of your work?

A. Yes. [12]

Q. And what did you do for him?

A. Oh, just do a little maintenance work.

Q. What?

A. Do a little maintenance work.

Q. What kind of work?

A. A little maintenance work.

Q. And have you ever been convicted of a crime?

A. Yes.

Q. When were you convicted?

A. Oh, about a couple of years ago.

Q. And did you go to the penitentiary?

A. Yes.

Q. What did you go for?

A. One year and a day.

Mr. Stevens: Your Honor, that is as far as he can go. I object to any further questioning. Mr. Hurley asked his question and he has his answer.

Q. (By Mr. Hurley): Were you in Fort Yukon at the time you were convicted?           A. No.

Q. Whereabouts?           A. Here.

Q. And were you working here?           A. No.

Q. What were you doing? [13]

A. Looking for a job.



(Testimony of Fred Ross.)

Q. Didn't you have a job? A. No.

Mr. Stevens: I object to this. It is immaterial, incompetent and irrelevant and not connected with cross-examination.

The Court: Put your objections in promptly and I will rule on it.

Q. (By Mr. Hurley): Now, you say that Mr. Lambert asked you to go and buy this?

A. Yes.

Q. This liquor? A. Yes.

Q. And did he tell you why he wanted you to buy it? A. Yes.

Q. What did he say?

A. He said he wants to stop this thing.

Q. Stop what thing?

A. From Gilbert Lord selling this whiskey.

Q. How did he know that Mr. Lord was selling whiskey? A. I don't know.

Q. What? A. I don't know.

Q. Did you know of him having anybody else buy liquor? A. Pardon? [14]

Q. Do you know of him trying to get anybody else to buy liquor? A. No.

Q. He just picked you out? A. Yes.

Q. What did he tell you when he told you to go and buy this liquor; did he tell you that you had to go and buy it? A. No.

Q. What did he tell you?

A. He just wanted me to help him out.

Q. Help him out, and did he say anything about you having to testify against Gilbert Lord in this

(Testimony of Fred Ross.)

case? A. I don't quite understand that, sir.

Q. I say, did he tell you that you would have to testify against Gilbert Lord in this case?

A. Yes.

Q. And did he tell you what his reason was for telling you that you had to testify? A. Yes.

Q. What did he say?

A. He said he wants to stop Gilbert Lord from selling whiskey and doing evil things.

Q. And did he say anything about your job?

A. No.

Q. Didn't say a word about it?

A. No. [15]

Q. Didn't tell you that you had to go and claim that you was buying this whiskey in order to hold your job? A. No.

Q. You sure of that? A. Yes.

Q. Didn't you tell somebody else that you had to go and buy this liquor in order to hold your job?

A. No.

Q. You didn't tell anybody? A. No.

Q. You sure of that? A. I am sure.

Q. You sure you just bought four bottles of whiskey and paid how much for them, did you say?

A. Six dollars a piece.

Q. Six dollars a bottle. Do you know about how much they sell it for when they bring it in on the airplanes? A. No.

Q. Fort Yukon? A. Pardon?

Q. Do you know how much they sell it for when

(Testimony of Fred Ross.)

they bring it in on the planes over to Fort Yukon from Fairbanks?      A. No.

Q. Didn't you ever buy any?

A. I just bought these four here.

Q. Never bought any from anybody else? [16]

A. No.

Q. How did you get your liquor?

A. I generally sent for it.

Q. To whom did you send?      A. Lindy's.

Q. Lindy's Grocery?      A. Yes.

Q. And how much did you pay for it?

A. Oh, it wasn't too much.

Q. About how much a bottle?

A. Well, about \$1.75.

Q. What size bottle?      A. Half pints.

Q. Half pints, bought them for \$1.75, that right?

A. Yes.

Q. Do they bring much of it over there by plane?

A. Yes.

Q. Anybody can buy it over there that wants to, is that right?      A. I don't know.

Q. You know people buying it over there, don't you?      A. No.

Q. Never knew anybody else to buy any but you?

A. Yes.

Q. You know of anybody else selling it?

A. No. [17]

Q. Only man you ever knew of selling liquor was Gilbert Lord; is that right?      A. Yes.

Q. And Mr. Lambert told you that he was selling it, is that right?      A. No.

(Testimony of Fred Ross.)

Q. He didn't tell you that Gilbert Lord was selling whiskey?      A. Oh, yes.

Q. And did he tell you how he knew?

A. No.

Q. You didn't know that Gilbert Lord sold whiskey, did you?      A. No.

Mr. Hurley: I think that's all.

### Redirect Examination

By Mr. Stevens:

Q. Fred, you just put your initials on here, is that your testimony, on each one of these exhibits?

A. Yes.

Q. "F.R." on each one; those are your initials and you wrote them?      A. Yes.

Q. You didn't write the date?      A. No.

Q. And you say that you did taste one of the bottles? [18]      A. Yes.

Q. Have you ever tasted whiskey before?

A. Off and on, I did.

Q. And was that whiskey in that bottle?

A. Yes.

Q. Fred, at the time you bought this whiskey, did you see Mr. Lord have a license on the wall to sell liquor?      A. No.

Q. Fred, where, exactly, is Mr. Lord's house in Fort Yukon?

A. It is about in the center of town.

Q. And did you know that house before you went there on the night of the 18th of February?

A. Yes.

(Testimony of Fred Ross.)

Mr. Stevens: That's all.

The Court: I think we had better have a ten-minute recess.

The Clerk: Court is recessed for ten minutes.

(Thereupon, at 11:08 a.m. the court took a recess until 11:18 a.m., at which time it reconvened.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Stevens: Yes, your Honor.

Mr. Hurley: Yes, your Honor.

### FRED ROSS

the witness on the stand at the time the recess was taken, resumed the stand for [19]

### Recross-Examination

By Mr. Hurley:

Q. Did you quit work up there in Fort Yukon?

A. Yes.

Q. How did you happen to quit?

A. Oh, I just wanted to get out for awhile.

Q. Didn't they fire you up there because you were drinking so much?

A. I was going to quit so I——

Q. What? A. I don't know.

Q. Didn't you get fired because you got drunk so much? A. No.

Q. You sure of that?

(Testimony of Fred Ross.)

A. I don't think so. They never mentioned anything like that to me.

Q. When was it that you quit?

A. It was last month.

Q. When? A. Last month.

Q. And were you drinking then?

A. I drank that night a little bit.

Q. What night?

A. The night before I quit.

Q. Where did you get your whiskey?

A. I sent for it. [20]

Q. Whereabouts? A. Lindy's.

Q. What? A. Lindy's.

Q. How much did you get?

A. I bought a case of wine.

Q. What else? A. That's all.

Q. Who brought it over for you?

A. Cliff Fairchild.

Q. What? A. Cliff Fairchild.

Q. Who did you come over here with from Fort Yukon? A. Pardon?

Q. Who did you come over here with from Fort Yukon? A. Mr. Lambert and Silas John.

Q. Whose plane was it?

A. Cliff Fairchild.

Q. Did you take any wine back with you in the plane when you came over here from Fort Yukon?

A. No, I just took a few bottles over.

Q. Who got that for you?

A. I bought it myself.

Q. And who was flying the plane when you took

(Testimony of Fred Ross.)

it back?       A. Cliff Fairchild.

Q. And who was in the plane?

A. Silas John. [21]

Q. Who else?       A. And Mr. Lambert.

Mr. Hurley: That's all.

Mr. Stevens: No further questions. Thank you very much, Fred.

(Witness excused.)

Mr. Stevens: Silas John, please.

### SILAS JOHN

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

#### Direct Examination

By Mr. Stevens:

Q. Will you tell us your name, please; what is your name?       A. Silas John.

The Clerk: Government's Identification No. 5, No. 6 and No. 7.

(Two bottles of wine were marked Government's Identification Nos. 5 and 6, respectively; and one bottle of home brew was marked Government's Identification No. 7.)

Q. (By Mr. Stevens): And where do you live, Silas?

A. I stay in Fort Yukon and I work at the hospital 1939.

Q. Do you know Gilbert Lord?

(Testimony of Silas John.)

A. Yes, I know him. [22]

Q. That is the gentleman sitting at the table there?      A. Yeah, I know.

Q. And do you know where he lives?

A. Fort Yukon, right in the center of town.

Q. This is our Identification No. 5, Silas?

A. Yes.

Q. Have you seen that before?

A. This wine?

Q. That bottle?      A. Yes.

Q. Where did you see that?

A. I got it from Gilbert, you know.

Q. And how much did you pay him for it?

A. Five dollars cash.

Q. And when was that?      A. February.

Q. Can you talk a little louder, Silas?

A. February 19th.

Q. It was the 19th of February of this year?

A. Yes.

Q. 1954?      A. 19—this year, February, '54.

Q. Where were you when you bought that?

A. I had been at the Marshal's place. They give me money.

Q. You were at the Marshal's place? [23]

A. Me and Ellis, we go over there to Marshal's place, and Marshals give me money and I went, Lambert, too, and Mr. Elliott and me, we go over to Marshal, Fort Yukon Marshal.

Q. Yes, you went to the Marshal's house with Mr. Elliott?

A. Yes, and Marshal searched me, you know, my



(Testimony of Silas John.)

pocket and everything. Next he give me money. I went over to Gilbert Lord. I bought one wine in February 19, nine o'clock.

Q. Now, it was about nine o'clock?

A. Yeah.

Q. Was the wine in that bottle when you bought it?

A. Yes, that time it was empty. He took a big jug of wine and filled it up and he gave me, I give him five dollars and I went to the Marshal's place.

Q. You paid him five dollars for the bottle and then you took it back to the Marshal's place?

A. Yes.

Q. And now this is our Identification No. 6, Silas?

A. Yes.

Q. Did you see that?

A. Yeah.

Q. Where have you seen that before?

A. Same place.

Q. When was that?

A. February 20.

Q. What time was it? [24]

A. About twelve o'clock.

Q. In the morning?

A. Make night, about twelve o'clock.

Q. You mean it was just a little after midnight on the morning of the 20th?

A. Yes.

Q. And was that February?

A. Yeah, February.

Q. Of this year, 1954?

A. Yes.

Q. And how did you get that from Mr. Lord?

A. Put it—he got big jug of wine, you know.

(Testimony of Silas John.)

He poured it in for me and I give him five dollars cash.

Q. Did you see him pour it out of a big jug?

A. Yes.

Q. And you paid him five dollars?

A. Yes.

Q. All right, did you taste any of the wine you bought?      A. Yes.

Q. Have you had wine before?

A. Yeah, a lot of times.

Q. And you know what it tastes like?

A. Yes.

Q. And is this wine?      A. It is wine. [25]

Q. And did you buy anything else that night?

A. Before that I buy it all the time.

Q. Now, this is our Identification No. 7; did you see that before?

A. Yeah, I see it a lot of time.

Q. And where did you get that?

A. This one, this is home brew.

Q. Where did you get that?

A. Gilbert Lord.

Q. And when did you buy it?

A. February 20, twelve o'clock.

Q. At the same time you bought this last one?

A. Yes.

Q. This one here, that is our Identification 6 that you just——

A. Yeah, all together I bought six dollars.

Q. How much did you pay for that?

A. One dollar.

(Testimony of Silas John.)

Q. And you paid him five dollars for the wine so you paid him altogether six dollars the second time?

A. Yes. The first time I buy one quart wine, and the last time wine and this.

Q. The first time you bought a quart of wine and the second time you bought a quart of wine and home brew?

A. Yes.

Q. Is that home brew? [26]

A. Sure, it's home brew.

Q. How did you know he had that for sale?

A. Well, I be over there all the time. He sell home brew all the time.

Q. You knew he sold it?

A. Yeah, I know that.

Q. Do you know whether he has a license? Does he have a license to sell this?

A. I don't know nothing about it. He ain't got no license, I think.

Q. You don't think he does?

A. I never saw a license on the wall.

Q. Did you see any more liquor in his place when you got this?

A. Yes, I see he got home brew. I don't see liquor, just the home brew and wine. That's all I see.

Q. And he had this wine in a big jug when you went in?

A. Yeah. Me, I don't see nothing, pretty hard for me.

Mr. Stevens: Your witness, Mr. Hurley.

(Testimony of Silas John.)

Cross-Examination

By Mr. Hurley:

Q. Did you see any more home brewed beer there?      A. Where?

Q. Where you say you got that bottle?

A. Well, it is home brew, this one.

Q. What? [27]      A. This one is home brew.

Q. Did you see any more?      A. Where?

Q. Did you see any more, any more home brewed beer?      A. This one, that's all I know.

Q. Is that the only one you saw?      A. Yeah.

Q. There wasn't any more there?

A. Just the one quart.

Q. One bottle?      A. Yeah.

Q. How much wine did you see?

A. That's all I saw.

Q. Right here. Where was this home brewed beer?      A. Gilbert, Gilbert Lord.

Q. What?      A. Gilbert Lord.

Q. I know, but whereabouts?

A. In his house, Fort Yukon.

Q. What?      A. Fort Yukon.

Q. Was it in his house?      A. Yes.

Q. Whereabouts in his house?

A. Just about where he stayed, you know.

Q. What? [28]      A. Just a room.

Q. Whose room?      A. Gilbert.

Q. Who else stayed in that room?

A. He stayed himself.

Q. Was there anybody with you when you saw this beer and wine?

(Testimony of Silas John.)

A. I see that woman there, too.

Q. Saw what?

A. Woman, one woman there all the time.

Q. What was she doing there?

A. I don't know.

Q. Wasn't she taking care of his children?

A. I don't know.

Q. You didn't see any children?

A. I see children, but I do not.

Q. You knew that Gilbert Lord has children there, didn't you; you know his family, Gilbert's family?      A. Yes.

Q. And they were there, were they?

A. Yeah, I never see his wife.

Q. Who went with you when you got this wine and beer?      A. Just me alone.

Q. Who sent you?

A. I went to a Marshal's place.

Q. What? [29]

A. I went to Marshal's place.

Q. Marshal send you over there?

A. I went to Marshal's place. He gave me money. I get it.

Q. How much money did he give you?

A. He gave me last time he give me six dollars.

Q. Is that all?

A. He give me five dollars, six dollars. He give me eight dollars the first time.

Q. How much?      A. Yes.

Q. Altogether eight dollars?

(Testimony of Silas John.)

A. And I buy one quart of wine and I give him five dollars.

Q. And what did you do with the wine?

A. The rest of it I gave it back to him.

Q. You took it back to the Marshal?

A. Yeah.

Q. What did he do with it?

A. I just give him the wine. That's all I know, and the rest of the money I give back to him.

Q. What did you do with the beer?

A. I mean just the first time I buy a quart of wine, and the last time I buy one quart wine and one quart beer.

Q. Did you drink any of it?

A. Yes. I drank some of that wine. [30]

Q. Did you drink any beer?

A. Yes, a glass of beer.

Q. And where did you get the beer?

A. His place.

Q. Out of that bottle, did he take the beer out of the bottle?

A. Yeah, in a glass he give me a shot of beer.

Q. What bottle did he take it out of?

A. Quart bottle. He got quart bottle, you know.

Q. Just like the one that is there, same kind of bottle?

A. Not the same kind, no. Different kind bottle.

Q. Not the same bottle?      A. No.

Q. He had a different bottle?

A. No, he got different bottles home brew.

Q. Did you ever see him make any beer?

(Testimony of Silas John.)

A. I see. I drink all the time beer over there, but I didn't never see him make it.

Q. You see it over there?

A. Yeah, every night I have been there.

Q. You used to go there every night?

A. Yes.

Q. Did you drink there every night?

A. I drink just a little, not much, you know.

Q. Not much? [31] A. No.

Q. Where do you work?

A. I work in the hospital since 1939.

Q. Who do you work for?

A. I work in the Fort Yukon Hospital.

Q. Who do you work for?

A. Bishop Gordon, and I forgot that woman, her husband, he working.

Q. What do you do? A. Oh, just janitor.

Q. What? A. Janitor.

Q. Who told you to—that they wanted you to buy liquor and wine and beer?

A. I just went to the Marshal's place. He give me money. That's all. I just buy some.

Q. Who gave the Marshal the money, do you know? A. Marshal is name Wilson.

Q. Who gave him the money, do you know?

A. Marshal over there, you see, he give me money, Wilson.

Q. Do you know where he got the money?

A. He give me the money and that's why I buy the liquor.

Q. Did he tell you not to drink it?

(Testimony of Silas John.)

A. I don't know. He just keep it. I give it to him. That's all. [32]

Mr. Hurley: That's all.

Mr. Stevens: Thank you very much, Silas.

(Witness excused.)

Mr. Stevens: Mr. Lambert, please.

### RICHARD LAMBERT

a witness called in behalf of the plaintiff, was duly sworn and testified as follows:

#### Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Richard Lambert.

Q. Where do you live, Mr. Lambert?

A. Fort Yukon.

Q. Do you know Fred Ross?           A. Yes, sir.

Q. Do you know Silas John?         A. Yes, sir.

Q. And do you know Gilbert Lord?

A. Yes, sir.

Q. On the night of the 18th of February, did you see Fred Ross?           A. Yes, sir.

Q. Where did you first see him that night?

A. In his home.

Q. And did you go anywhere with him?

A. Yes, sir. [33]

Q. Where did you go with him?

A. To Marshal Wilson's home, and from there I watched him go into Mr. Lord's home.



(Testimony of Richard Lambert.)

Q. Now, prior to the time that he went into Mr. Lord's home, did you do anything in regard to—all right, strike that. What did you do when he went into Mr. Lord's house?

A. Before he went in we searched Mr. Ross and gave him some money.

Q. How much money did you give him?

A. I gave him ten dollars. Mr. Wilson gave him twenty-five, and he left with thirty-five dollars, and we watched him, went out to the house with him. Went out of the Marshal's house with him, followed along perhaps seventy-five yards, watched him go into Mr. Lord's house and waited a few minutes until he came back out and walked with him back to the Marshal's house where we searched him, found what money he had and found that he had two half pints of whiskey.

Q. What type of whiskey was it?

A. It was Imperial whiskey.

Q. And Government's Identification 1 and 2, are these the pints of whiskey that you took from him?

A. Yes, sir.

Q. And at that time how much money did he have?

A. Twenty-three dollars, and we found the whiskey with him.

Q. Now, did you see him again that evening?

A. Yes, sir. [34]

Q. When was that?

A. Stayed with him until about 1:00 a.m. on the morning of the 19th, searched him again and again

(Testimony of Richard Lambert.)

walked with him until he went up into Mr. Lord's home, and again returned with two bottles of whiskey.

Q. And Government's Identification 3 and 4, are these the second pair of bottles of whiskey that you took from him?      A. Yes, sir.

Q. Do you know how much money he had when he went into the house the second time?

A. I'm not sure.

Q. Did you search him when he returned the second time?      A. Yes, sir.

Q. Do you remember the difference in the amount of money that he had when he went in and the amount of money he had when he came out?

A. Twelve dollars again was the missing amount. I believe he came back with eleven dollars.

Mr. Stevens: Your witness, Mr. Hurley.

### Cross-Examination

By Mr. Hurley:

Q. Where did he carry this whiskey?

A. Inside his jacket, sir.

Q. What?

A. Inside a jacket, or perhaps in his pocket. I believe it was inside his jacket, yes, sir. [35]

Q. And when did you first see the whiskey?

A. In the living room of Mr. Wilson's house.

Q. And who was present?

A. Fred Ross, Mr. Wilson and Mrs. Wilson.

Q. And what was done with the whiskey then?

A. I put my name on the bottles. I believe Mr.

(Testimony of Richard Lambert.)

Wilson did, too, and Mrs. Wilson and Fred, or initials.

Q. And what did you do with them?

A. Well, I didn't touch them. I believe Mrs. Wilson put a label on the bottles.

Q. And then what became of the bottles?

A. I don't know, sir.

Q. Where did he take them?

A. They were in Mr. Wilson's home.

Q. All the time?

A. All of what time, sir?

Q. The time they got there?           A. Yes, sir.

Q. And then what became of them?

A. I don't know, sir.

Q. You don't know what happened to them?

A. I presumed Mr. Wilson kept them in his care, yes.

Q. But you don't know; you didn't see them any more?

A. Not until—no, I didn't see them any more.

Q. And did you drink any of this whiskey?

A. No, sir. [36]

Q. He didn't drink any of it, the bottles weren't open?           A. I didn't see him drink any.

Q. Were the bottles open?

A. The whiskey bottles were sealed, sir.

Q. What?

A. The whiskey bottles were sealed when he brought them back.

Q. They were never opened as far as you know?

A. Perhaps he opened one.

(Testimony of Richard Lambert.)

Q. Perhaps he did, whereabouts?

A. I would like to strike that out. I would say he didn't open one of those bottles.

Q. He didn't open any of the bottles?

A. Not to my knowledge.

Q. Then you don't know what is in the bottles yourself?      A. No, sir.

Q. All you know is what you have been told?

A. I know there was a seal, a stamp on the bottles and the type of label on it. That's all, sir.

Q. That's all you know about it. You don't know whether they contained whiskey or not, or whether anybody ever drank any of it?

A. Not of those particular bottles.

Q. Were there any other bottles involved?

A. No, sir. [37]

Q. That's the only ones that you know anything about?

A. Yes. I presume that whiskey was in them.

Q. You are just guessing at that?

A. It is a little better than a guess, sir.

Q. Did you smell any of them?

A. They weren't open.

Q. So, he had these in his jacket, took them into Wilson's house, and left them there as far as you know?      A. Yes, sir.

Q. And when did he return to his house?

A. Fred Ross, probably two or three o'clock in the morning.

Q. Were you with him?      A. Yes, sir.

Q. Where did he have the money then?

(Testimony of Richard Lambert.)

A. He had no money then.

Q. He had no money. I thought you said you searched him and counted the money he had on him when he went home?

A. When he went home the money had been Mr. Wilson's and mine, and it stayed in Wilson's possession, so when he went home he had no money.

Q. Oh, Wilson got the money?           A. Yes, sir.

Q. How much of that was your money?

A. Ten dollars, sir.

Q. Did you ever get that back? [38]

A. No, sir.

Q. He's still got that, too, Wilson has?

A. Well, it might be the ten dollars was spent on the whiskey, sir.

Q. How's that?

A. The ten dollars might have been spent on the whiskey.

Q. Ten?

A. Part of it might have been, yes, sir.

Q. And you don't know what became of the rest of it?           A. No, sir.

Q. When he got back to his cabin he didn't have any money at all?           A. That's right, sir.

Q. Where did you and Wilson search him?

A. In Mr. Wilson's home, sir.

Q. And how much did he have when you searched him?

A. The first time, thirty-five dollars, before he bought two bottles. When he returned he had

(Testimony of Richard Lambert.)

twenty-three dollars. When he returned the second time he had eleven dollars.

Q. And the searching was all done in Wilson's house?      A. Yes, sir.

Q. And how long was it from the time he left Wilson's house before you came back to Lord's house?      A. Perhaps ten minutes, sir.

Q. Ten minutes?      A. Yes, sir. [39]

Q. Now, what was the time that you first went into Lord's place, when was that?

A. About 9:30 p.m., February 18th.

Q. 9:30 p.m.?      A. Approximately.

Q. February 18th?      A. Yes, sir.

Q. And that was on the 18th day of February, was it?      A. Yes, sir.

Q. And where did he go then, after he went there at 9:30?

A. Back to Mr. Wilson's home, sir.

Q. And how long did he stay there?

A. Till about one o'clock.

Q. The next morning?

A. No, sir, we left Mr. Wilson's house perhaps a half an hour later and went to the Commissioner's home.

Q. You left there about ten o'clock?

A. Yes, sir.

Q. And went to the Commissioner's house?

A. Yes, sir.

Q. What were you doing over there?

A. Commissioner's?

Q. Yes.

(Testimony of Richard Lambert.)

A. A record of what had transpired was typed out by the Commissioner. [40]

Q. Transpired where?

A. At Mr. Wilson's house and at Mr. Lord's house.

Q. Who typed it out?

A. The Commissioner, Mr. Beaver.

Q. And what was the purpose of typing that out?

A. Just to get what had taken place, what had transpired on these papers.

Q. And he typed there from half past nine until midnight?

A. No, sir. He typed perhaps fifteen or twenty minutes.

Q. And then where did you go?

A. Back to Mr. Wilson's house.

Q. Was Silas with you then?           A. No, sir.

Q. Where did he go?

A. Where did Silas go? Well, he wasn't—this is still, as I understand it, we are talking about the evening of February 18th, and Mr. Silas John wasn't there the evening of the 18th.

Q. Oh, Ross, it was Fred?

A. Yes, this was Mr. Ross.

Q. Yeah, well, where did he go?

A. He went back from the Commissioner's house back to Mr. Wilson's house.

Q. How long did he stay at the Commissioner's house?

A. We stayed there about a half an hour. [41]

(Testimony of Richard Lambert.)

Q. What was he doing there, Fred?

A. He was with Mr. Wilson and myself.

Q. Oh, Mr. Wilson went over to the Commissioner's house with you?

A. Yes, sir.

Q. Did you search him over there?

A. At the Commissioner's house, no, sir.

Q. And did you have any liquor over there?

A. Did Mr. Ross have any liquor there?

Q. Yes, anybody?

A. Mr. Ross had none. I didn't either.

Q. Well, they didn't take any liquor over there then, to the Commissioner's house?

A. They didn't show me. They didn't show the liquor to me if they did bring it over.

Q. Well, if there had been some over there you would have seen it?

A. I had seen it once before in the evening. I wasn't too particularly concerned to find out who it was or who was carrying it, if they had it with him.

Q. Who would have had it over at the Commissioner's if there had been any there?

A. Perhaps the Marshal.

Q. And you don't know whether the Marshal took any over there or not?

A. No, sir. [42]

Q. And you say you and the Marshal and Fred Ross were there about a half an hour?

A. Yes, sir.

Q. And then where did you go?

A. Back to Mr. Wilson's house.

Q. Then you were only gone about a half an hour



(Testimony of Richard Lambert.)

altogether from Wilson's house, between 9:30 and one; is that right?      A. No, sir.

Q. How long were you gone?

A. First we went to Mr. Lord's house. Then we came back to Mr. Wilson's house. We stayed there perhaps a half an hour. Then we went to Mr. Beaver's house, the Commissioner's, and stayed there about a half an hour. We went back to Mr. Wilson's house, stayed there until about 1:30 a.m., February 19th.

Q. Then where did you go?

A. Back to Mr. Lord's house.

Q. Did you go in?      A. No, sir.

Q. Why not?

A. I watched Mr. Ross go in, sir.

Q. Why didn't you go in?

A. I had given him my money. I wasn't particularly interested in buying whiskey.

Q. You did go in there the next day or two? [43]

A. No, sir.

Q. Didn't you go in there and serve a search warrant on the 25th of February?

A. That was about a week later, sir.

Q. On the 25th, wasn't it?      A. Yes, sir.

Q. On the 25th of February?      A. Yes, sir.

Q. That was a few days later?      A. A week.

Q. Where did you search?

A. Searched Mr. Lord's house, sir.

Q. Who was with you on that search?

Mr. Stevens: I object, your Honor. This is ir-

(Testimony of Richard Lambert.)

relevant to the issues before the court, a search that took place almost a week later.

The Court: Objection sustained.

Q. Was Mr. Lord there when you searched the place?

Mr. Stevens: I object again, your Honor.

The Court: Objection sustained.

Q. (By Mr. Hurley): Did you go back to Lord's place with Fred Ross or Silas John after the 18th?

A. Yes, sir.

Q. When was that? A. The 19th. [44]

Q. And did you ever go back after that?

A. Yes.

Q. When? A. Past it. I was outside.

Q. Just past the house?

A. Not back there, because I hadn't gone into his house at all, sir.

Q. You just went past? A. Yes.

Mr. Hurley: That's all.

### Redirect Examination

By Mr. Stevens:

Q. Did you go back, you say, with Silas John the next day? Mr. Hurley just asked you if you were with Silas John. A. On the 20th?

Q. Yes.

A. Yes, I was with Silas in Mr. Wilson's home.

Q. And did you go through the same procedure with Silas that you had gone through with Fred Ross?

(Testimony of Richard Lambert.)

A. No, I didn't, as I say, I didn't go back. I went outside and watched them, but Mr. Elliott, Mr. Wilson and Mr. John left.

Q. This is Government's Exhibit 7; have you seen this before?      A. Yes, sir.

Q. Is there any way that you can identify that bottle? [45]      A. Well, I——

Q. Are those your initials on there?

A. No, sir.

Q. They are not?      A. No, sir.

Mr. Stevens: That's all. Mr. Hurley, have you anything further?

Mr. Hurley: No.

(Witness excused.)

Mr. Stevens: May we take the recess, your Honor?

The Court: The Court in a moment will adjourn until 1:30, but the jury will be excused until two o'clock. Return here at two o'clock.

The Clerk: Court is recessed until 1:30.

(Thereupon, at 12:00 noon, a recess was taken until 1:30 p.m.)

#### Afternoon Session

(The trial of this cause was resumed at 2:00 p.m., pursuant to the noon recess.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Stevens: Yes, your Honor.

Mr. Hurley: Yes, your Honor.

The Court: Very well. Proceed.

Mr. Stevens: Call Mr. Elliott, please. [46]

### NORMAN ELLIOTT

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

#### Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Norman Elliott.

Q. Where do you reside, Mr. Elliott?

A. Eagle, Alaska.

Q. And where is that from Fairbanks?

A. Two hundred miles due east on the Yukon.

Q. And where is that from Fort Yukon, if you please?

A. Two hundred miles southeast on the Yukon River.

Q. Did you have occasion to be in Fort Yukon on the 19th of February?      A. Yes, I did.

Q. Of this year?      A. Yes, I did.

Q. And do you know Silas John?      A. I do.

Q. Did you see Silas John on that day at any time?      A. Yes, I did.

Q. And where did you see him?

A. I saw him working at the hospital and that evening I saw him at the Marshal's house. I saw him go to Gilbert Lord's house, enter, leave, return to the Marshal's house [47] and then to the Commissioner's and then back to his cabin.

(Testimony of Norman Elliott.)

Q. What, if anything, did you do concerning Silas John at the time he went to Gilbert Lord's house?

A. I accompanied him to the Marshal's house and with the Marshal searched him, found out he had no money. He was then given \$15.00 and I watched him go into the roadhouse. I watched him come out.

The Court: What do you mean by the roadhouse?

The Witness: The building which Gilbert Lord lives, sir, is known as the roadhouse, Fort Yukon. I watched him come out and then went with him to the Marshal's and upon his return to the Marshal's again he was searched, was found to have ten dollars and one one-fifth of wine. From there we went to the Commissioner's.

Q. (By Mr. Stevens): This is Government's Identification 5; would you tell us what that is?

A. This is a bottle of wine, appears to be the same bottle which Silas brought back with him at that time from Gilbert Lord's house to the Marshal's.

Q. And do you know to your knowledge did anyone take a drink out of that bottle?

A. Silas, in the presence of the Marshal and myself.

Q. Did what?

A. Took a drink from this bottle.

Q. And did you do anything concerning Silas John again that same evening or the next [48] morning?

(Testimony of Norman Elliott.)

A. Ten minutes past midnight, which would be the next morning, yes. Again he was searched at the Marshal's house in the presence of the Marshal and Mrs. Wilson, the Marshal's wife, and myself. He was found to have no money and was given nine dollars and at that time I went ahead of him to Gilbert Lord's and did not see him enter, but did see him leave, and he—I accompanied him again back to the Marshal's and upon being searched then he was found to have one bottle of wine, one bottle of home brew and three dollars. I again went with him directly, or later, to the Commissioner's. It was about one o'clock when we went to the Commissioner's at that time.

Q. And these items, Government's Identification 6 and 7, will you tell us what they are, please?

A. Yes, this is a bottle of wine and a bottle of home brew which Silas brought back with him on that second visit on the morning of the 20th.

Q. And you witnessed him leave Gilbert Lord's house on this occasion?      A. Yes, I did.

Q. And you had searched him prior to the time he went to the house?      A. Yes, sir.

Q. And when he came back, that's when you searched him; did you search him when he came back?      A. Yes, sir. [49]

Q. How much money did he have left when he came back?      A. I—he had three dollars, sir.

Q. And you stated that he had nine dollars when he left?      A. Yes, sir.

Mr. Stevens: Your witness, Mr. Hurley.

(Testimony of Norman Elliott.)

Cross-Examination

By Mr. Hurley:

Q. What was this money? What did it consist of? What kind of money?

A. I believe the first, sir, was a ten dollar bill and a five dollar bill. The second time was a five dollar bill and four silver dollars.

Q. You gave him fifteen dollars first?

A. I didn't sir; the Marshal did.

Q. Gave him fifteen dollars? A. Yes, sir.

Q. And then the next time you gave him how much? A. Nine dollars, sir.

Q. Nine, that made twenty-four dollars altogether that the Marshal gave him?

A. Yes, sir.

Q. And what did he do with that money?

A. That was returned again to the Marshal, sir, at the end of each visit, the change.

Q. The change? [50] A. Yes, sir.

Q. Now, the Marshal searched him every time, did he? A. Yes, sir.

Q. And did you sit in on that search?

A. Yes, sir.

Q. And what was the reason for searching him, didn't you trust him?

A. Yes, sir, but we wished to establish evidence.

Q. And did he work for you?

A. No, sir, not at that time.

Q. Had he worked for you?

A. Indirectly, sir. I was priest in charge of St.

(Testimony of Norman Elliott.)

Stephen's Mission at Fort Yukon for one year, from September of 1952 to September of '53.

Q. How long did you preach up there?

A. One year, sir, at Fort Yukon, and at that time he was under my care when I was acting as a priest because the hospital is more or less under the supervision and jurisdiction of the priest of the Mission, it being an Episcopal Hospital.

Q. And which bottle did he drink out of?

A. Which one, sir? The first one that he brought back.

Q. Why did he drink out of that?

A. Upon, just prior to his second visit, sir.

Q. Prior to his second visit?

A. Yes, sir, to Gilbert Lord's. [51]

Q. But I say, why did he drink out of that bottle?

A. It was felt that he should have liquor on his breath when he made the second purchase.

Q. And who was that going to influence, the fact that he had liquor on his breath?

A. We felt that he might then again obtain another purchase.

Q. By having liquor on his breath?

A. Yes, sir.

Q. I see, and was this liquor wine or beer?

A. It was wine, sir.

Q. And why did you pick the wine instead of the beer?

A. Because he had no beer with him on that first visit. He brought back only wine.



(Testimony of Norman Elliott.)

Q. Did anybody else drink?           A. No, sir.

Q. Anybody else go over there with him?

A. The Marshal, sir.

Q. Went to the roadhouse with him?

A. Watched him enter, sir. Neither one of us went side by side with him, but we kept him in view as he went ahead of us.

Q. And how far was he from you?

A. Not more than thirty-five feet at any time, sir, except when he went into the house, and at that time I was not more than twenty-five feet away from the back stairs. [52]

Q. And you know where he went after he went inside?           A. No, sir, I do not.

Q. And where did he go after he came out?

A. Directly to the Marshal's, sir.

Q. And then where?

A. To the Commissioner's.

Q. And what did you do at the Commissioner's office?

A. The Commissioner typed up the statements of Silas and myself and the Marshal.

Q. Made a statement?           A. Yes, sir.

Q. Have you got a copy of that statement?

A. I do not, sir. The Marshal, I believe, filed that with the Marshal's office.

Q. The Marshal has it?           A. Yes, sir.

Q. And what was done with that statement after the Marshal got a copy of it, do you know?

A. I believe he retained it in his possession until he turned it in here.

(Testimony of Norman Elliott.)

Q. What became of the wine?

A. That was retained in the Marshal's possession.

Q. What became of the money that was paid back?

A. That was also returned to the Marshal and retained by him.

Q. All of the twenty-four dollars? [53]

A. No, sir; the change.

Q. What?

A. No, sir; just the change which he had after the purchase.

Q. Was that all the Marshal's money that was given to him?

A. Yes, sir; none of it was mine.

Q. None of it was your money? A. No, sir.

Q. And you say nobody else sampled this wine and beer? A. Not to my knowledge, sir.

Q. Did the Commissioner make any test or examination of it? A. Not in my presence, sir.

Q. Was it taken over there to him?

A. It was taken to his office, yes, sir.

Q. And he didn't do anything with it at all?

A. No, sir; not in the matter of tasting it, no.

Q. Did anybody else taste it that you know of?

A. No, sir.

Mr. Hurley: That's all.

Mr. Stevens: Thank you very much.

(Witness excused.)

Mr. Stevens: Mr. Wilson.

HERBERT H. WILSON

a witness called in behalf of the plaintiff, was duly sworn and testified as follows: [54]

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Herbert H. Wilson.

Q. What is your occupation, Mr. Wilson?

A. Deputy United States Marshal.

Q. Where are you stationed?

A. Fort Yukon, Alaska.

Q. And were you stationed at Fort Yukon, Alaska, in February of this year?      A. I was.

Q. Now, on the 18th of February, did you see a resident of Fort Yukon whose name is Fred Ross?

A. I did.

Q. Where did you see him?

A. He came to my house about, oh, nine o'clock, something like that.

Q. Would you talk a little louder, please?

A. He came to my house about nine o'clock, somewhere along there, him and Mr. Lambert.

Q. And do you know where he went after he left your house?      A. I do.

Q. Where did he go?

A. He went to Gilbert Lord's.

Q. And did you watch him go to Gilbert Lord's?

A. I did. [55]

Q. What, if anything, did you do before he entered Mr. Lord's place?

A. Before he left my place I searched him in

(Testimony of Herbert H. Wilson.)

the presence of Mr. Lambert. I went through his pockets. Mr. Lambert just felt the outside of his pockets to see how much money he had, and he didn't have any. I gave him twenty-five dollars and Mr. Lambert gave him ten dollars, and he went up to Gilbert Lord's place. We followed him up to, oh, about thirty feet of the entrance to the place and we hid there and watched him go in the building and he was in there, probably, oh, five, six, seven minutes, something like that.

Q. Would you keep your voice up, please?

A. And he came out of the building and we followed him back down to my place then. We never let him get out of our sight when he was outside of Lord's house. We followed him back down to my place. We went in and we searched him and we found that he had two "mickeys" of Imperial Whiskey and twenty-five dollars left of the thirty-five dollars he started out with.

Q. This is Government's Identification 1; would you tell us what that is, please?

A. That is a half pint of Imperial Whiskey.

Q. And have you seen that before?

A. I have.

Q. Where did you see it?

A. Taken it from Freddy Ross the 18th of [56] February.

Q. Is there any way that you can tell, that you can identify it as being the same bottle?

A. I can.

Q. How is that?

(Testimony of Herbert H. Wilson.)

A. I put the date and the month, date and the year, and my initials on it, and the time.

Q. And where has that bottle been since that time?

A. I kept it in my possession until the 23rd of February, and I brought it over here and it has been in the vault in the Marshal's office ever since until this morning.

Q. And did you get it out of the vault?

A. I did.

Q. This is Government's Identification 2; would you tell us what that is, please?

A. That is another bottle of Imperial whiskey, half pint.

Q. And is there any identification on that?

A. There is.

Q. What is that, please?

A. It has the month and the date and the year and the time that it was bought and my initials and Freddy Ross' initials and Mr. Lambert's initials.

Q. What is the date on there?      A. 2-16-54.

Q. And where has that been since the time you first saw it? [57]

A. It was in my possession until the 23rd of February and then it has been in the vault in the Marshal's office ever since.

Q. And did you also get that out this morning?

A. I did.

Q. Now, that bottle has been opened, has it not?

A. Yes.

Q. You know who opened that?      A. I did.

(Testimony of Herbert H. Wilson.)

Q. And what did you open it for?

A. I opened this bottle and told Freddy Ross to taste it to be sure that it was whiskey that he was buying, and he tasted it and said it was whiskey all right.

Q. Now, did you see Fred Ross after the occasion you searched him and found these bottles?

A. I did. He stayed there at my house and we went up to the Commissioner's and we came back down to my place. We searched him again between twelve and one. I gave him the twenty-three dollars back that I had taken off him when he came back from the first purchase and he went up and got two more bottles in identically the same fashion as before.

Q. Did you know how much money he had when he left your house the second time?

A. Twenty-three dollars.

Q. And did you search him before he went into the place?

A. Before he left my house, and he never got out of my sight until he went in there. [58]

Q. This is Government's Identification 3; will you tell us what that is, please?

A. It is a half pint of Imperial whiskey.

Q. And where did you first see that?

A. On Fred Ross after he came back out from Gilbert Lord's place.

Q. How can you identify it as being the same bottle?

(Testimony of Herbert H. Wilson.)

A. It has the month and the day and the year, the time and my initials on it.

Q. And this is Government's Identification 4; have you seen that before?      A. I have.

Q. Where did you first see it?

A. Taken it from Freddy Ross on the 2nd day of February.

Q. Was that the 2nd day of February?

A. No, February the 19th, 1954, second month, 19th day.

Q. And do you have your initials on that bottle also?      A. I do.

Q. Now, the second time when Mr. Ross came back, did you search him after he left Mr. Lord's place?      A. I did.

Q. And how much money did he have with him when he returned?      A. Eleven dollars. [59]

Q. And you stated he had twenty-three dollars when he left your sight?      A. I did.

Q. Now, do you know Silas John?      A. I do.

Q. And did you see Silas John on the 19th day of February?      A. I did.

Q. Where did you see him?

A. Him and Mr. Elliott came to my house about, something like nine o'clock, between eight-thirty and nine o'clock, right around nine o'clock.

Q. Keep your voice up, please, Mr. Wilson. Did you go through the same procedure with Silas John that you described to the court and the jury in connection with Mr. Ross?      A. I did.

Q. What exactly did you do?

(Testimony of Herbert H. Wilson.)

A. I searched him and I gave him fifteen dollars, and then we followed him out there and he went up to Gilbert's and he was in there approximately five minutes, something like that, came out. We followed him back down to my house, went in, searched him. He had a bottle of wine and ten dollars left.

Q. This is Government's Identification 5; will you tell us have you seen that before? [60]

A. I have.

Q. And where did you see that first?

A. Taken that off Silas John after he came back from Gilbert Lord's place.

Q. Is there any identification on that bottle?

A. There is.

Q. And what is that, please?

A. It has the month and the day and the year and my initials and the time.

Q. What was the day and the month?

A. February 19, 1954.

Q. And where has that bottle been since that time?

A. That was in my office, sir, Fort Yukon, until the 23rd of February, and it has been in my vault in the Marshal's office ever since, until this morning.

Q. What did Silas John do after he brought this back?

A. We went up to the Commissioner's and back to my place.

Q. Did you go back again to Mr. Lord's place?

A. We did.

Q. What time was that?



(Testimony of Herbert H. Wilson.)

A. It was shortly after midnight, between twelve and one o'clock.

Q. Did you go through the same procedure you just described?

A. I searched Silas, see that he had no money, and I [61] gave him nine dollars, gave him a five dollar bill and four silver dollars.

Q. And you watched him enter Mr. Lord's place?

A. I did, but I didn't see him leave. He went in the front door and out the back. I was watching the front and the other man was watching the back.

Q. When did you first see him after that?

A. Shortly after I saw them going toward my place.

Q. Will you tell us what this is?

A. That is a bottle of wine.

Q. Where did you see that first?

A. Taken it off Silas John.

Q. Did you take it off of him yourself?

A. Well, he had it sitting right by, on the chair like this holding it in his hand when I went in.

Q. Is there any identification on that bottle?

A. There is.

Q. What is the identification?

A. February 20th, 1954, and my initials.

Q. And where has that bottle been since that time?

A. It was in my possession until the 23rd of February and it has been in the vault in the Marshal's office ever since.

Q. And did you get it out likewise this morning?

(Testimony of Herbert H. Wilson.)

A. I did.

Q. What is that, Government's Identification 7? [62]

A. Bottle of home brew.

Q. Where did you first see that?

A. Got it from Silas John when he came back from Gilbert Lord's place the second time.

Q. Is there any identification on that bottle?

A. There is.

Q. How did that identification get there?

A. Bob Thomas and I put this on here.

Q. And where has that bottle been ever since?

A. It was in my possession until the 23rd of February, and it's been in the vault in the Marshal's office ever since until this morning I take and got it.

Q. You can identify that as being the same bottle that you saw that morning of the 20th?

A. I can.

Q. Of this year? A. I can.

Q. And how much money did Mr. John have when he came back the second time?

A. He had three dollars and a bottle of wine and a bottle of home brew.

Q. And it is your testimony, is it, Mr. Wilson, that these, all of the Government's Exhibits here were in your possession personally until the 23rd of February? A. They were.

Q. Of March that is; is that right? [63]

A. February.

Q. And then you brought them to Fairbanks?

A. Yes.

Q. And you placed them in the vault?

(Testimony of Herbert H. Wilson.)

A. I placed them in the vault myself.

Q. And you got them out of the vault this morning?

A. I taken them out of the vault this morning.

Mr. Stevens: At this time, your Honor, we offer into evidence Government's Exhibits 1 through 7, an individual offer on each one.

The Court: They may be admitted.

The Clerk: Identification 1 is Government's Exhibit "A"; 2 is "B"; 3, "C"; 4, "D"; 5, "E"; 6, "F"; and 7 is "G."

(Government's Identification Nos. 1 through 7, respectively, were received in evidence as Government's Exhibits "A" through "G," respectively.)

Mr. Stevens: Your witness, Mr. Hurley.

#### Cross-Examination

By Mr. Hurley:

Q. How much money did you say you advanced to these men for buying liquor?

A. I gave Fred Ross twenty-five dollars and Dick Lambert gave him ten dollars.

Q. And whose money was this?

A. Twenty-five dollars of it was mine. [64]

Q. Whose was the other?

A. Mr. Lambert, as far as I know.

Q. What?

A. Mr. Lambert, as far as I know. He had it in his pocket.

(Testimony of Herbert H. Wilson.)

Q. Did he give it to you?

A. He gave it to Freddy, yes.

Q. He gave him ten dollars, you say?

A. Yes.

Q. You gave him twenty-five dollars?

A. That's right.

Q. And are you—do you and Mr. Lambert give money right along to the Indians to buy liquor?

A. In a case like this I will.

Q. You do it right along?

A. In a case like this I will.

Q. And where does the money come from?

A. I make my own money.

Q. This is money that you make to give to the natives to buy liquor?

A. I work for my money and I give it to the natives if I want to.

Q. Does Mr. Lambert dish his money out the same way you do?

A. I couldn't tell you that.

Q. You don't know what the arrangement [65] was?

A. I don't know.

Q. You don't know if it was his money or somebody else's?

A. I don't know.

Q. Did you ever get any of that money back?

A. I don't expect to.

Q. You don't expect to get it back?

A. No.

Q. You say you don't do this very often, do you?

A. Just in cases like this.

(Testimony of Herbert H. Wilson.)

Q. You give the Indians money to buy liquor in cases like this?      A. I will, yes.

Q. And how often do you do that?

A. This is the second time that I have done it on Gilbert Lord.

Q. Second time?      A. Yes, sir.

Q. And how many times on other people?

A. I never done it on anyone else.

Q. Just after him?

A. Well, he is the only one that is selling over there to amount to anything.

Q. That you know of?      A. Yes.

Q. Other people have liquor shipped in there, don't they? [66]      A. They do.

Q. Quite a lot of it, isn't there?      A. Yes.

Q. In fact, most of it comes in by plane?

A. That's right.

Q. Anybody can order it that wants to?

A. That's right.

Q. A great many people over there do order it and have it come in by plane?

A. That's right.

Q. And they also ship in quantities of pop and malt and things of that kind, do they not, for making beer?      A. They do.

Q. And anybody over there can have that. There is nothing wrong with that as far as you know?

A. Not with malt, no.

Q. Now, when you followed this native over to Gilbert Lord's place you say he came in and went out and then came over to your place with the whiskey?      A. That's right.

(Testimony of Herbert H. Wilson.)

Q. And then you stayed there for awhile and went some place else?

A. He never was away from me no minute of the time.

Q. Didn't he go some place else after he came to your house?

A. We went to the Commissioner's, yes. [67]

Q. What did you do down there?

A. We were getting ready for a grand jury case.

Q. I think you said he drank some liquor out of one of the bottles?

A. He tasted out of one of them, yes.

Q. So the seals on those bottles, that is at least one of them, has been opened; is that right?

A. One of them.

Q. At least one has been opened?

A. That's right.

Q. And you don't know whether any of the others were opened?

A. No, sir; none of the others were opened.

Q. How do you know?

A. Seals are not broken on them.

Q. But it is broken on one of them?

A. It is broken on one. I broke it.

Q. And you say he just took one drink out of that and that was all?

A. That's right; just the one small drink.

Q. Why didn't he take more?

A. I didn't want him to. I just wanted him to be sure it was whiskey that he was buying.

Q. That was the same way with the wine, was it?

(Testimony of Herbert H. Wilson.)

A. That's right. I wanted him to be sure he was buying wine. I knew he drank enough wine that he could tell. [68]

Q. You thought he had to do that in order for them to know that it was wine and whiskey?

A. Well, it is a good idea, you know, to be certain about things.

Mr. Hurley: I see. That's all.

### Redirect Examination

By Mr. Stevens:

Q. Mr. Wilson, the amount of money that you gave to these two people, Mr. Ross and Mr. John, you got the change back except the amount that is represented in the liquor that is in evidence?

A. I did.

Q. Then your funds and Mr. Lambert's funds are still tied up in that?

A. They are still tied up in this batch of stuff, here.

Q. This liquor that is in evidence?

A. That's right.

Q. And when you sent these people to Mr. Lord's house did you know that he would sell liquor to them?

Mr. Hurley: We object to that, calling for a conclusion, incompetent, irrelevant and immaterial.

The Court: Sustain the objection.

Q. (By Mr. Stevens): At any time after these individuals left your house, Mr. Wilson, and went

(Testimony of Herbert H. Wilson.)

to Mr. Lord's and came back to your house, was there any time in that trip to Mr. Lord's and back that they left your sight except when they were in the house of Gilbert Lord? [69]

A. One time Silas John, he went in the front door. I saw him go in the front door and he came out the back door. I was watching the front of the building, and Mr. Elliott was watching the back, and I didn't see him come out, but I saw him as they went down toward my house and the beacon light was there and shone on them and that was the way I saw them.

Q. And what was your purpose in searching these individuals?

A. To make certain that they didn't have anything on them when they went in there, only what I gave them.

Q. And you testified from your own knowledge what they had when they came out?

A. That's right.

Mr. Stevens: Your witness, Mr. Hurley.

Mr. Hurley: That's all.

(Witness excused.)

Mr. Stevens: The Government rests, your Honor. No, no, just a moment. I will withdraw that. I will call Miss Steger. She's in the hall.



OLGA STEGER

a witness called on behalf of the plaintiff, was duly sworn and testified as follows:

Direct Examination

By Mr. Stevens:

Q. Will you state your name, please?

A. Olga Steger. [70]

Q. And where do you reside, Miss Steger?

A. Fairbanks.

Q. And what is your occupation?

A. Chief Deputy, Clerk of the Court.

Q. And as Chief Deputy, Clerk of this Court, do you have under your supervision or do you have access to the liquor licenses which are issued in this Division?      A. Yes.

Q. And do you know the liquor licenses which have been issued in Fort Yukon?      A. Yes.

Q. And is there or was there a liquor license issued to Mr. Gilbert Lord in February of 1954?

A. No, sir.

Q. And did he procure for this calendar year a liquor license at any time?      A. Not for 1954.

Mr. Stevens: Thank you very much. Your witness.

Mr. Hurley: That's all.

(Witness excused.)

Mr. Stevens: The Government rests, your Honor.

Mr. Hurley: Could we have about a fifteen-minute recess?

The Court: Yes; fifteen-minute recess.

The Clerk: Court is recessed until three [71] o'clock.

(Thereupon, at 2:45 p.m., the court took a recess until 3:00 p.m., at which time the trial of this cause was resumed.)

The Court: Counsel stipulate all the members of the jury are present?

Mr. Stevens: Yes, your Honor.

Mr. Hurley: Yes, your Honor.

The Court: Very well, proceed.

Mr. Hurley: Call Mr. Lord.

#### GILBERT LORD

the defendant, called as a witness in his own behalf, was duly sworn and testified as follows:

#### Direct Examination

By Mr. Hurley:

Q. What is your name? A. Gilbert Lord.

Q. Where do you live, Mr. Lord?

A. Fort Yukon.

Q. How long have you lived there?

A. Off and on for the last thirty years.

Q. Do you have any family there?

A. Part of my family's home and the rest of them, some of them are going to school and some in the Army.

Q. How many children do you have?

A. I have nine.

Q. How many are at Fort Yukon? [72]

A. There is three youngest ones at home.

(Testimony of Gilbert Lord.)

Q. And do you have a home there, or a roadhouse?

A. Not at the present time. It is closed right now.

Q. What?

A. The roadhouse is closed at present.

Q. Do you do any business there at all now?

A. No.

Q. Have you done any there for sometime?

A. Well, I rented it out to several different parties the last two years.

Q. The last two years?           A. Yes.

Q. And how long has it been rented here recently?

A. Well, it was rented out last year to a man by the name of—I forgot his name.

Q. You forgot his name, you say?

A. Yeah.

Q. Do you know a man up there by the name of Fred Ross?           A. Yes.

Q. Is he a native?           A. Yes.

Q. How long have you known him?

A. Oh, I should say from the time he was born practically.

Q. And you know Silas John?           A. Yes.

Q. How long have you known Silas? [73]

A. Fifteen or twenty years.

Q. And what have they been doing up there, do you know?

A. Well, Silas John worked around the hospital for quite a number of years.

(Testimony of Gilbert Lord.)

Q. And what has the other native done?

A. Well, as far as I know he has been doing a little trapping and odd jobs, and lately he was working for the hospital.

Q. How long did he work for the hospital?

A. I don't know. I know he was working there last summer sometime, but then he got laid off and got rehired again.

Q. Rehired again, you say?

A. Well, then he got fired again, or quit. I don't know which. I couldn't swear to it just lately.

Q. And did you hear his testimony about his claim of buying some pints of whiskey from you?

A. Well, I heard evidence that he was supposed to have bought it from me, yes.

Q. You heard the testimony?           A. Yes.

Q. Did you ever sell him any whiskey?

A. No.

Q. Did you ever sell Silas John any wine or beer?           A. No.

Q. Did you ever know of anybody coming in there to your place inquiring for liquor? [74]

A. Yes, that same fellow came up there, that same Fred Ross came up to my place one time.

Q. Fred who?           A. Ross.

Q. What happened?

A. Well, he wanted to buy some liquor. I told him I didn't have anything and he got mad and I had to tell him to get out of there.

Q. When was this?

A. I can't remember. It was lately, around about

(Testimony of Gilbert Lord.)

the time that he claims he brought the stuff up there.

Q. Along about the same time? A. Yes.

Q. Do you know how he happened to make that claim that he bought liquor from you; do you know how he happened to make that claim? A. No.

Q. You don't know what caused him to come in and claim that you sold him liquor?

A. No, I don't know how.

Q. Well, did he ever come in there with any money?

A. Not that I know of. That is the only time I remember him up there was the night I had to tell him to get out because the children were all asleep and he was getting loud, speaking loud and waking them up.

Q. Did you ever make any beer or sell any wine there at your place? [75] A. No.

Q. Do you know of people shipping in liquor there?

A. Why, yes, there is a plane comes in every other day.

Q. Does it usually bring liquor? A. Yes.

Q. And have you had liquor shipped in?

A. Yes.

Q. Did you have liquor at your place at different times? A. Yes.

Q. Did you ever have any there for sale?

A. Yes.

Q. For sale? A. No.

Q. Did you ever know of any officers or anybody

(Testimony of Gilbert Lord.)

of that kind giving people money to buy liquor?

A. No.

Q. You never got any marked money yourself?

Mr. Hurley: That's all. You may cross-examine.

### Cross-Examination

By Mr. Stevens:

Q. Did Silas John come to your place on the morning of the 20th of February?

A. I couldn't tell you whether it was the 20th or any other day. He is usually up there once or twice a week.

The Clerk: Government's Identification No. 8.

(Judgment and Commitment No. 1676, Criminal, was marked Government's Identification No. 8.)

Q. (By Mr. Stevens): Did you let him out the back door yourself?

A. I don't let nobody out the back door. There is a hallway. They go out themselves.

Q. But you didn't go to the door and let him out?

A. No.

Q. And your name is Gilbert Lord?

A. That's right.

Q. Will you tell us, are you the Gilbert Lord that is named in Government's Identification 8?

A. Yes, sir.

Mr. Stevens: Your Honor, we offer Government's Identification 8 in evidence for impeachment purposes.

(Testimony of Gilbert Lord.)

Mr. Hurley: We object to it on the grounds it is incompetent, irrelevant and immaterial, no proper foundation laid for it.

The Court: Overruled. It may be admitted.

The Clerk: Government's Exhibit "H."

(Government's Identification 8 was received in evidence as Government's Exhibit "H.")

Mr. Stevens: May I read this to the jury?

The Court: Surely.

Mr. Stevens: Government's Exhibit "H" (reading): [77]

#### GOVERNMENT'S EXHIBIT H

In the District Court for the District of Alaska,  
Fourth Judicial Division

No. 1676 Cr.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GILBERT LORD,

Defendant.

#### JUDGMENT AND COMMITMENT

On the 16th day of November, 1953, came the attorney for the Government, and the defendant appeared in person, and by counsel.

It Is Adjudged that the defendant has been convicted upon his plea of guilty of the offense charged

(Testimony of Gilbert Lord.)

in the Indictment on file herein, to wit, Selling Liquor Without a License, committed in the Fourth Judicial Division, Territory of Alaska, on the 15th day of August, 1952, by the defendant, possessing and selling intoxicating liquor, to wit, beer of an alcoholic content of more than one per cent (1%) by volume, to James Carroll, without he, the said Gilbert Lord, having procured the necessary license to sell intoxicating liquor, and the Court having asked the defendant whether he had anything to say why judgment should not be pronounced, and no sufficient cause being shown or appearing to the Court, and the Court being fully advised in the premises, [78]

It Is Ordered and Adjudged that the defendant is guilty as charged in said Indictment of the crime of Selling Liquor Without a License, and that he pay to the Clerk of the Court the sum of Five Hundred Dollars (\$500.00), assessed against him as a fine herein, and that he be imprisoned until payment of said fine, or until said defendant is otherwise discharged as provided by law.

It Is Further Ordered that the Clerk deliver a certified copy of this Judgment and Commitment to the United States Marshal, or other qualified officer, and that the same shall serve as the Commitment herein, and that the said defendant pay the costs of this action in the sum of \$19.50, to be taxed by the Clerk of the Court.



(Testimony of Gilbert Lord.)

Done at Fairbanks, Alaska, this 16th day of November, 1953.

/s/ HARRY E. PRATT,  
District Judge.

[Endorsed]: Filed and entered Nov. 21, 1953.

(Finish reading.)

Mr. Stevens: And the attachment is a certificate of the Clerk of the Court that this is a true copy of the Judgment and Commitment.

Q. (By Mr. Stevens): Now, Mr. Lord, you just stated to Mr. Hurley that you never had any intoxicating liquor for sale in Fort Yukon?

A. Yes, sir. [79]

Q. Now, how can you say that in view of this evidence?

Mr. Hurley: We object to that as incompetent, irrelevant and immaterial, not proper cross-examination.

The Court: Objection overruled.

Mr. Hurley: I take exception.

A. I pleaded guilty to that charge.

Q. (By Mr. Stevens): But you said you never sold any?

A. I pleaded guilty for financial reasons.

Q. You now deny that you sold liquor at that time? A. That's right.

Q. You never possessed liquor for sale; Mr. Hurley asked you if you possessed liquor for sale, is that correct? A. That's correct.

(Testimony of Gilbert Lord.)

Q. And you never have sold any liquor?

A. That's correct.

Q. And you didn't sell this liquor that is before the court to the two people that testified that you did sell it?

A. That's right.

Q. Now, did Fred Ross come to your house on the 18th of February?

A. I can't remember when it was, the 18th or any other day, he came up there one night.

Q. Just one night?

A. Yes.

Q. Just the one time that night?

A. Yes. [80]

Q. Did he come back again the same night?

A. Not that I know of.

Q. Then the testimony of Mr. Ross that he was there twice that night is wrong; is that correct?

A. I don't know. He could have been in the house and I wouldn't know it.

Q. How about Silas John; was he there on the 19th of February?

A. I don't know if it was the 19th or what day of the week it was he was there.

Q. Then the testimony of both Mr. John and Mr. Wilson and Mr. Elliott is wrong. He was not there twice?

A. Not necessarily. He could have been in the house, as I say, without me knowing it.

Q. Oh, he just walked through, is that it?

A. It's a big house.

Q. I beg pardon?

A. It's a big house. I live upstairs. It is open

(Testimony of Gilbert Lord.)

downstairs. He could have been down there for all I know.

Q. How do you get in your house, upstairs?

A. You go, you go up the back or the front and through another stairway.

Q. And did you not let Mr. John out at all either time he came to your house?

A. As far as I know, it was only one time he was there.

Q. Oh, he was only there one time. [81]

A. On that particular day.

Q. Now, you stated that you never made home brew? A. I didn't say that I never made it.

Q. You never made it for sale? A. No.

Q. Then the testimony of Mr. John that you not only sold him this bottle of home brew but also gave him a drink of the home brew while he was there is also false; is that correct?

A. That's false. It is probably the other way around, if anything.

Q. Oh, he made the home brew and gave it to you?

A. Well, I don't know if he made it. He used to come and visit me quite often and bring it with him.

Q. Do you have a gallon jug of wine in your house? A. Right now you mean?

Q. Did you have at the time Mr. John came to your house? A. Yes.

Q. And did you pour the wine into these bottles when he came? A. No.

(Testimony of Gilbert Lord.)

Q. You did not pour any wine into these bottles?

A. No.

Q. You have stated that you do have liquor sent into you at Fort Yukon? [82]

A. Yes.

Q. And did you have this Imperial whiskey sent in to you?

A. No, sir.

Q. Did you ever have Imperial whiskey sent in to you?

A. I have had different brands of whiskey. I don't remember if it was Imperial or any other kind.

Q. Are you aware that before a person may sell liquor in the Territory of Alaska that he must procure a license?

A. I am.

Q. And were you aware of that at the time that Government's Exhibit "H" was delivered to you, at the time you entered your plea for financial reasons, as you say, on that other case? Did you know it was a crime to sell liquor without a license?

A. I did.

Q. And that was just in November of last year, was it not?

A. Yes.

Q. And did you attempt to procure a license to sell liquor in Fort Yukon for this year?

A. I was going to but I was told there wasn't any chance to get a license over there.

Q. Oh, you thought about getting a license?

A. Yes, sir.

Q. And you couldn't get one? [83]

A. I didn't apply for one.

Q. Why couldn't you get one?

(Testimony of Gilbert Lord.)

A. Well, I built a place over there one time, built a night club and I was going to get a license for it and I was told the same thing. It is impossible to get a license over there.

Q. Why is it impossible?

A. According to what they say, the drys over there fight it.

Q. In other words, according to the law of the Territory, a certain percentage of the people in the area in which liquor is going to be sold have to consent and in Fort Yukon they will not consent; is that right?

A. They will, but according to the way they used to do, you present your application here to the court for a liquor license, and they give the dry element over there thirty days to fight it. Although you have all the names you need on your list, why these people over there they sign the petition against your license so that cancels you out. That happened to me two or three times.

Q. That happened to you two or three times?

A. Yes.

Q. And yet you never sold liquor without a license?      A. No.

Q. And you pleaded guilty to this one just for financial reasons?      A. That's right. [84]

Q. And you even thought about getting a license for this year, is that your testimony?      A. Yes.

Q. You didn't intend to sell liquor this year?

A. If I would have got a license I would have sold it.

(Testimony of Gilbert Lord.)

Q. Failing to get a license, knowing you could not get a license due to the objections of Fort Yukon people, you went right ahead and sold this liquor? A. No.

Q. You didn't have anything to do with any of these bottles that are in evidence? A. No.

Q. Then this is just a trumped-up charge on the part of the people of Fort Yukon against you; is that right?

A. I wouldn't say "people of Fort Yukon," trumped up by somebody. I wouldn't say who.

Q. And the witness who stated they saw both Silas John and Fred Ross enter your house on two separate occasions for each one of the witnesses, Fred Ross and Silas John, and saw them come out with this whiskey, their statements were false, is that right?

A. I don't know. They could have had it there.

Q. Was there anyone else in your house selling liquor?

A. Nobody selling liquor in my house.

Q. Was there anyone else residing there on the 18th, 19th and 20th of February? [85]

A. Me and my family and the lady that takes care of my children.

Q. Were they selling liquor?

A. If you will excuse me, they are grade school students.

Q. Then you admit that Fred Ross did come to see you at least once during February?

A. Yes.

(Testimony of Gilbert Lord.)

Q. And Silas John was also there once?

A. Oh, he has been there more than once. Him and I used to be what you might call old friends. He used to come up and visit me and talk about the old days.

Q. And his testimony that he has had home brew at your place many times is false; is that right?

A. He had it there, but if he did he brought it there himself.

Q. This home brew that is in evidence, did he bring that to your house?      A. I don't know.

Q. Did you ever see any of these bottles before you came to this courtroom?

A. Not to my knowledge.

Mr. Stevens: Your witness, Mr. Hurley.

Mr. Hurley: That's all.

(Witness excused.)

Mr. Hurley: The defense rests. [86]

The Court: Call your next witness.

Mr. Stevens: I believe, your Honor, that Mr. Hurley stated the defendant rests.

Mr. Hurley: I did.

The Court: Very well, then. Do you have any rebuttal, Mr. District Attorney.

Mr. Stevens: Just one moment please, your Honor. I recall Mr. Elliott.

## NORMAN ELLIOTT

recalled as a witness in behalf of the plaintiff, having been previously sworn, testified further as follows:

## Direct Examination in Rebuttal

By Mr. Stevens:

Q. Mr. Elliott, you previously testified, I believe, this is correct, that on one of the visits to Gilbert Lord's house, Mr. John came out the rear door?

A. Yes, sir; on both occasions he came out the rear door.

Q. On both occasions he did? A. Yes, sir.

Q. Now, on either occasion when Mr. John came out, did you see anyone else as he came out of the door? A. On the first visit, sir.

Q. And who was that?

A. Gilbert Lord, sir.

Q. And Gilbert Lord was at the door with him when he left? [87]

A. Yes, sir, and I'm sure it was Gilbert Lord because the flashing beacon from the airport illuminates about every ten seconds the entire back of the roadhouse which is painted white. There was snow on the ground and Lord was carrying a flashlight which he flashed.

Mr. Stevens: Your witness, Mr. Hurley.

## Cross-Examination

By Mr. Hurley:

Q. You say he let him out? A. Yes, sir.

Q. What did he do in order to let him out?



(Testimony of Norman Elliott.)

A. Opened the door, sir.

Q. And did he have any liquor, Mr. Lord, when he opened the door?

A. I don't know if Mr. Lord did or not, sir. No, sir, I don't know.

Mr. Hurley: That's all.

Mr. Stevens: Thank you very much, Mr. Elliott.

(Witness excused.)

Mr. Stevens: The Government rests, your Honor.

The Court: We will take a ten-minutes recess.

(Thereupon, at 3:23 p.m., the court took a recess until 3:35 p.m., at which time it reconvened and the trial of this cause was resumed.)

The Clerk: Court is recessed for ten minutes.

The Court: Counsel stipulate all members of the jury are present? [88]

Mr. Hurley: Yes, your Honor.

Mr. Stevens: Yes, your Honor.

The Court: How much time do you gentlemen want for argument?

Mr. Hurley: Just a few minutes, your Honor, as far as the defendant is concerned, twenty or thirty minutes. Fifteen or twenty minutes, something like that.

The Court: All right. We will make it twenty minutes maximum. Is that enough?

Mr. Stevens: Yes, your Honor.

The Court: Very well.

(Thereupon, Mr. Stevens presented a closing argument to the Jury in behalf of the plaintiff.)

(Thereupon, Mr. Hurley presented a closing argument to the Jury in behalf of the defendant.)

(Thereupon Mr. Stevens presented a rebuttal argument to the Jury in behalf of the plaintiff.)

(At this time, the Court read the instructions to the jury as follows:) [89]

\* \* \*

(At the conclusion of the court reading the instructions to the jury, the following proceedings were had.) [96]

The Court: Attorneys may come forward for exceptions.

Mr. Stevens: No exceptions, your Honor.

Mr. Hurley: No exceptions.

The Court: Very well. The jury may retire in the custody of the bailiffs.

(At 4:00 p.m., the jury, in charge of its sworn bailiffs, retired to enter upon its deliberations.)

[Endorsed]: Filed May 27, 1954. [97]

---

[Title of District Court and Cause.]

#### CERTIFICATE OF CLERK

I, John B. Hall, Clerk of the above-entitled Court, do hereby certify that the proceedings listed below the Designation of Record of the defendant and comprise all proceedings in this cause, requested by pellants, viz.:

1. Indictment.
2. Order extending time to file, record, and docket cause.
3. Undertaking on Appeal on Admission to Bail.
4. Notice of Appeal.
5. Judgment and Commitment.
6. Motion to Vacate Sentence.
7. Verdict.
8. Instructions to the Jury.
9. Praecipe for Transcript of Record.
10. Appellant's Statement of Points and Designation of Record.

Transcript of Proceedings, separately bound.

Witness my hand and the seal of the above-entitled Court this 29th day of June, 1954.

[Seal] /s/ JOHN B. HALL,  
Clerk of Court.

---

[Endorsed]: No. 14407. United States Court of Appeals for the Ninth Circuit. Gilbert Lord, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the District Court for the District of Alaska, Fourth Division..

Filed July 1, 1954.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals  
for the Ninth Circuit

No. 14407

GILBERT LORD,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

APPELLANT'S STATEMENT OF POINTS  
TO BE RELIED UPON

Comes Now the appellant above named, by his attorneys, Mike Stepovich and Julien A. Hurley, and designates the following as the points to be relied upon on appeal by appellant in the above-entitled action, and are as follows:

1. The indictment fails to state facts sufficient to constitute a crime.

2. The Trial Court erred in sustaining the objection of appellee in regard to the search that took place on the premises of appellant, which is contained on Page 44 of the Transcript of Record.

3. The Trial Court erred in admitting Government's Identification No. 8 over the objection of appellant, contained in the Record on pages 78 and 79, and the Trial Court further erred in overruling the objection of the appellant on Pages 79 and 80 of said Transcript, for the reason that the evidence offered by appellee was incompetent, irrelevant and

immaterial, and not proper cross-examination, which said objection was overruled by the Court.

/s/ MIKE STEPOVICH,

/s/ JULIEN A. HURLEY,

Attorneys for Appellant.

Receipt of copy acknowledged.

[Endorsed]: Filed August 2, 1954.

